



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Color Country District Office

Cedar City Field Office

176 East DL Sargent Drive

Cedar City, UT 84721

Telephone (435) 586-2401

www.blm.gov/ut/st/en/fo/cedar_city.html



RECEIVED
MAR 21 2012
DIV. OF OIL, GAS & MINING

In Reply Refer To:

UTC01

3809: UTU-88179

March 19, 2012

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
7011 0110 0000 7232 5507

DECISION

Operator: Peck Rock and Products, LLC
268 E 360 S
Lehi, UT 84043

Pending Plan: UTU-88179
Project Name: Blawn 1-4

Pending Plan of Operations Case File Closure

On October 13, 2010, Peck Rock and Products, LLC (PRP) submitted a plan of operations to expand its exploration and bulk sampling activities, which were authorized under notice UTU-80521, to commercial mining operations. Your plan proposal was serialized as case file UTU-88179.

In response to the plan, PRP was notified by the BLM that the clay proposed to be mined may be a common variety. On November 29, 2010, PRP was sent a letter explaining BLM's procedures to process a plan in the event that the proposed mining operation may involve the removal of common variety minerals. PRP was requested to provide certain information that could be useful in making a determination whether the subject mineral was a common or uncommon variety. PRP was also informed that the plan would not be approved until such a determination had been made by the BLM.

On April 14, 2011, PRP and the mining claimant of record, a Mr. Eugene Hodges, received a follow-up letter from the BLM Utah State office stating that the BLM's initial review of the information provided to the BLM was not verifiable and could not be used to conclusively show that the mineral in question is of an uncommon variety. In that letter, PRP and the claimant were given two options to proceed with the proposed commercial mining operations. Option 1 was to pay a processing fee to the BLM so that a formal mineral examination report could be prepared in order to make a determination whether the subject minerals were of a common or uncommon variety. Option 2 was to purchase the subject minerals under BLM's mineral material disposal regulations at 43 CFR 3600. Option 2 would also require the

payment of a processing fee in order that an appraisal of the clay could be completed to determine fair market value, prior to sale.

On April 14, 2011, BLM received a response to its April 2011 letter from the claimant of record, Mr. Hodges, notifying us that he had selected Option 2, the sales contract option. In response, on May 5, 2011, Mr. Hodges and PRP were notified by BLM that a processing fee in the amount of \$9,180.00 must be submitted in order to complete the terms of Option 2, where a mineral material appraisal was required. While the fee estimate was accepted by Mr. Hodges, no monies were ever tendered and so the appraisal was never conducted.

On January 19, 2012, Mr. Hodges and his son requested that the BLM provide them with records showing BLM's determination that the mineral deposit is a common variety, along with a written response as to what is necessary for you to begin mining. A letter response, dated February 15, 2012, was sent both to Mr. Hodges and PRP, re-iterating Options 1 and 2. Mr. Hodges responding to that letter on March 5, 2012, indicating that he would pay the \$9,180.00 estimated original appraisal fee.

Given that Mr. Hodges apparently has selected Option 2, the sales contract option, BLM will close your pending plan of operations file, UTU-88179, as it is only a viable proposal for proceeding with commercial mining operations under Option 1.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, UT 84721) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

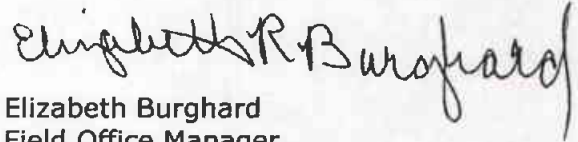
If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Sincerely,



Elizabeth Burghard
Field Office Manager

cc: Tom Munson, DOGM (UDOGM file S/001/0073, Blawn 1-4)
Opie Abeyta, BLM Utah State Office
Mr. Eugene Hodges, P.O. Box 2311, Beaver, UT 84713-2311
Mr. Gary Burningham, P.O. Box 974, American Fork, UT 84003